

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:
(202) 326-7999

July 13, 2015

Via ECF (S.D.N.Y. and C.D. Cal.) and Email (D. Kan.)

The Honorable Denise L. Cote
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

The Honorable John W. Lungstrum
The Honorable James P. O'Hara
United States District Court for the District of Kansas
500 State Avenue, Suite 517
Kansas City, KS 66101

The Honorable George H. Wu
United States District Court for the Central District of California
312 North Spring Street
Los Angeles, CA 90012-4701

Re: *NCUA v. RBS Securities, Inc.*, No. 11-5887 (C.D. Cal.)
NCUA v. RBS Securities, Inc., No. 11-2340 (D. Kan.)
NCUA v. RBS Securities, Inc., No. 13-6726 (S.D.N.Y.)
NCUA v. Morgan Stanley & Co., No. 13-6705 (S.D.N.Y.) (Lead Case)

Judges Cote, Lungstrum, O'Hara, and Wu
July 13, 2015
Page 2

Dear Judges Cote, Lungstrum, O'Hara, and Wu:

NCUA, as liquidating agent, respectfully seeks leave to file this short reply to respond to a misleading statement in RBS's opposition (ECF No. 374) to NCUA's request for a protective order (ECF No. 373).

RBS misleadingly claims that NCUA has provided it with short notice of certain depositions of Credit Suisse employees. *First*, NCUA requested those deposition dates from Credit Suisse weeks ago; the formal notices served last week simply memorialize dates agreed upon by the parties after those informal discussions. *See* Exhs. A, B. *Second*, NCUA will not use those depositions against RBS in any way, so RBS is not receiving short notice of these depositions, and has no standing to object. *See* ECF No. 101 ("MDP"), § 10(b) (requiring NCUA to "provide notice of [a] fact deposition to the other Defendant Group" if it intends to use that deposition against such Defendant Group). NCUA has not provided notice under MDP § 10(b) of any deposition of any Credit Suisse employee, including the two to which RBS refers. *Third*, RBS claims (at 3) that it shares "an overlapping deal" with Credit Suisse, but fails to note that the only such deal was reinstated recently in the *Credit Suisse* action in Kansas. NCUA has not obtained any deposition discovery regarding that deal (or any other reinstated Kansas certificate) because Credit Suisse has not provided relevant documents. *See* ECF No. 348 (establishing supplemental discovery schedule for reinstated Kansas certificates). *Fourth*, RBS has never attended any deposition of a Credit Suisse employee in these coordinated actions.

If RBS had genuinely believed that NCUA had provided insufficient notice of these Credit Suisse depositions, it could have raised this issue with NCUA, and NCUA would have made clear that NCUA did not intend to use those depositions against RBS and so RBS would suffer no prejudice from those deposition notices.

Judges Cote, Lungstrum, O'Hara, and Wu
July 13, 2015
Page 3

/s/ David C. Frederick

David C. Frederick
Wan J. Kim
Gregory G. Rapawy
Andrew C. Shen
KELLOGG, HUBER, HANSEN, TODD,
EVANS & FIGEL, P.L.L.C.
Sumner Square
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Tel: (202) 326-7900
dfrederick@khhte.com
wkim@khhte.com
grapawy@khhte.com
ashen@khhte.com

George A. Zelcs
KOREIN TILLERY LLC
205 North Michigan Avenue, Suite 1950
Chicago, IL 60601
Tel: (312) 641-9750
gzelcs@koreintillery.com

Stephen M. Tillery
Michael E. Klenov
Steven M. Berezney
KOREIN TILLERY LLC
505 North Seventh Street, Suite 3600
St. Louis, MO 63101
Tel: (314) 241-4844
stillery@koreintillery.com
mklenov@koreintillery.com
sberezney@koreintillery.com

Marc M. Seltzer (54534)
Bryan Caforio (261265)
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Tel: (310) 789-3100
mseltzer@susmangodfrey.com

Erik Haas
Peter W. Tomlinson
Philip R. Forlenza
Henry J. Ricardo
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036
Tel: (212) 336-2000
ehaas@pbwt.com
pwtomlinson@pbwt.com
prforlenza@pbwt.com
hjr Ricardo@pbwt.com

David H. Wollmuth
Frederick R. Kessler
Steven S. Fitzgerald
Ryan A. Kane
WOLLMUTH MAHER & DEUTSCH LLP
500 Fifth Avenue, 12th Floor
New York, NY 10110
Tel: (212) 382-3300
dwollmuth@wmd-law.com
fkessler@wmd-law.com
sfitzgerald@wmd-law.com
rkane@wmd-law.com

Norman E. Siegel (D. Kan. # 70354)
Rachel E. Schwartz (Kan. # 21782)
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, MO 64112
Tel: (816) 714-7100
siegel@stuevesiegel.com
schwartz@stuevesiegel.com

Attorneys for Plaintiff National Credit Union Administration Board